IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITIONS NO. 24/2002 & 25/2002

Goan Peoples' Urban
Co-operative Bank Ltd.,
a Co-operative Bank,
through its Chief Executive
Officer, Shri Joseph Luis
Fernandes, having office
at G-7, Souza Towers, Near
Municipal Garden, Panaji,
Goa. ....Petitioner

Versus

1. M/s Velho & Filhos, a
partnership firm,
having its office at
Velho Bldg., Dr.
Domingos Roque de Souza
Road, Panaji, represent-
ed by respondent no.4,
Verner Velho,

2. Shri Jose Virgilio
Joaquim Coelho Velho, in
business, r/o House No.102
Bernard Guedes Road,
Panaji,

3. Dr. Rachita Gupta Velho,
Medical Professional,
r/o House No.102, Bernard
Guedes Road, Panaji, Goa, and

4. Shri Verner Velho, in
business, r/o House No.102,
Bernardo G. Road, Panaji,
Goa. ....Respondents.

Mr. A.N.S. Nadkarni, Advocate General with Mr. M. S. Sonak, advocate for the petitioner in both the petitions.

Mr. Y. R. Naik with Mr. N. N.Sardessai, Advocates for the respondents in both the petitions.

CORAM: P. V. HARDAS, J.

DATE: 21st February, 2002.

ORAL JUDGMENT

Rule. By consent of the parties, Rule made

returnable forthwith. Since the order impugned in the petitions is a common order, both the petitions are being decided by this common judgment.

2. On the failure of the errant borrower in paying the dues of the petitioner Bank, the petitioner Bank raised a dispute before the Registrar of Co-operative Societies. The Nominee came to be appointed. The Nominee by his Award decreed the claim of the petitioner Bank. Being aggrieved by the Award of the Nominee, the respondents herein filed Cooperative Appeal Nos. 10/2000 and 11/2000 before the Cooperative Tribunal Goa, at Panaji. The learned President of the Tribunal by his Judgment dated 28th September, 2001 allowed the appeal and remanded the matter to the Registrar of Cooperative Societies, for a de novo proceedings from the stage of filing of the additional written statements by the appellants, who had filed the appeal. Against the Judgment of the Cooperative Tribunal Goa, at Panaji, the present petition has been filed by the petitioner Bank.

3. The learned President of the Cooperative Tribunal had allowed the appeals principally on three grounds:-

(i) that copy of the dispute in Form 'N' was not supplied to the present respondent;

(ii) that though the Nominee had directed the parties to produce documentary evidence, no documentary evidence, as such, was produced; and

(iii) issues had not been framed by the Nominee before passing the Award.

On these three principal grounds, the learned President of the Cooperative Tribunal at Panaji, remanded the matter to the Registrar of Cooperative Societies for de novo proceedings.

4. After hearing the learned Advocate General, Mr. A.N.S. Nadkarni with Mr. M. S. Sonak, for the petitioners for sometime, Mr. Y.R. Naik, learned counsel appearing for the respondents, submitted before me that he is agreeable for setting aside of the Judgment of the learned President of Cooperative Tribunal, if this Court is inclined to remand the matter to the Cooperative Tribunal for decision on merits, leaving all the points open for argument.

5. The learned counsel appearing for the petitioners, after deliberation, have expressed their no objection for such a course being adopted.

6. In view of what is submitted before me by

the learned counsel for the parties, the impugned Judgment dated 28th September, 2001 in Cooperative Appeals No. 10/2000 and 11/2000 are hereby quashed and set aside and the appeals are remanded to the learned President of the Cooperative Tribunal, Goa at Panaji, for decision on merits. It is needless to add that the points which have been urged in the Memo of Appeal, including the amendment which was sought, are kept open. The learned President of the Cooperative Tribunal, Goa, is directed to decide the appeals as early as possible, and not later than 15 days from the receipt of R.and P.. The parties to appear before the Cooperative Tribunal on 25th February, 2002. The learned President of the Cooperative Tribunal shall then fix the date for hearing of the appeals and shall decide the appeals as aforesaid, within a period of fifteen days from the receipt of the R. and P. Learned counsel for the parties have very fairly submitted before me that the parties would not seek any adjournment and would cooperate with the Tribunal in deciding the appeals within the stipulated period.

7. The Registry is directed to immediately remit the R. and P. to the Cooperative Tribunal, Goa at Panaji.

8. Thus, for the reasons stated above, the

Writ Petitions No. 24/2002 and 25/2002 are allowed. Rule is made absolute in the above terms.

P.V. HARDAS,J.